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Paper No. 4

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INTELLECTUAL PROPERTY ADMINISTRATION
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JUN 20 2002

OFFICE OF PETITIONS

In re Application of :
Bruce E. Lavigne : DECISION GRANTING
Application No. 10/091,875 : PETITION
Filed: March 5, 2002 :
Attorney Docket No. 100202223-1 :
:

This is a decision on the paper styled "PETITION TO SECURE FILING DATE AS OF MAILING DATE VIA EXPRESS MAIL" filed May 8, 2002, which is properly treated as a petition under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of March 5, 2002, rather than the presently accorded filing date of March 7, 2002.

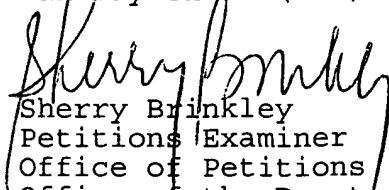
Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 5, 2002, pursuant to the requirements of 37 CFR 1.10. While the Express Mail label no. EV069670115US shows a handwritten "date-in" of April 5, 2002, it also includes an official USPS notation in the form of a "San Jose, CA USPS" stamp dated March 5, 2002. It is noted that the same Express Mail receipt number appears on the original transmittal letter and includes a certificate of mailing under 37 CFR 1.10 dated March 5, 2002.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 5, 2002.

The petition is granted. The \$130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to March 5, 2002.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.


Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy